

Retailers' Occupation Tax does not apply where the seller is obligated, under the terms of his agreement with the purchaser, to make physical delivery of the goods from a point in Illinois to a point outside Illinois, not to be returned to a point within Illinois, provided that such delivery is actually made. However, when tangible personal property is located in this State at the time of its sale and then is physically delivered in Illinois to the purchaser or the purchaser's representative, the gross receipts received by the seller are subject to Retailers' Occupation Tax if the sale is at retail. See 86 Ill. Adm. Code 130.605. (This is a GIL).

February 29, 2000

Dear Xxxxx:

This letter is in response to your letter dated January 25, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

The undersigned represents the above international air carrier.

COMPANY has many aircraft manufactured in the United States. Accordingly, they buy spare parts in many states, including yours. These spares are shipped to PLACE, where they are installed as needed.

We need a Certificate that our Buyer can present to suppliers in your state that will exempt COMPANY from Sales and/or Use Taxes because they will not be used in your state. I shall appreciate your sending me the appropriate form so that we can file same as early as possible.

Thanking you, I remain

When tangible personal property is located in this State at the time of its sale and then is physically delivered in Illinois to the purchaser or the purchaser's representative, the gross receipts received by the seller are subject to Retailers' Occupation Tax if the sale is at retail. See the enclosed copy of 86 Ill. Adm. Code 130.605(a). However, subsection (b) of this regulation states that Retailers' Occupation Tax does not apply where the seller is obligated, under the terms of his agreement with the purchaser, to make physical delivery of the goods from a point in Illinois to a point outside Illinois, not to be returned to a point within Illinois, provided that such delivery is actually made. In addition, subsection (c) states that Retailers' Occupation Tax does not apply where the seller ships goods by carrier or by mail, according to the terms of the agreement with the purchaser,

and the seller delivers the goods from a point in Illinois to a point outside Illinois not to be returned to a point within Illinois. Such sales are considered to be sales in interstate commerce and are exempt from Retailers' Occupation Tax. However, there may be a tax liability in the other state involved in the transaction. Illinois has no authority to interpret the sales tax laws of other states.

If an Illinois retailer is required under the terms of his sales contract to make delivery of tangible personal property to an international freight forwarder for shipment outside of the United States and such delivery is actually made, then the transaction is exempt from Retailers' Occupation Tax by virtue of being the stream of foreign commerce. The seller should retain copies of the shipping documents as evidence that he delivered the property directly to the international freight forwarder for shipment outside the United States.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte  
Associate Counsel

GR:msk  
Enc.